



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION



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TENTATIVE ORDER NO. R9-2010-0124 NPDES NO. CAG999002

GENERAL WASTE DISCHARGE REQUIREMENTS FOR THE PUBLIC DISPLAY OF FIREWORKS IN THE SAN DIEGO REGION

A Discharger, as described in the following table that has complied with the requirements for enrollment under this General "Waste Discharge Requirements" (WDR or Order) is subject to waste discharge requirements as set forth in this Order:

Table 1. Discharger Information

Discharger	Any person discharging pollutant wastes associated with the public display of fireworks to surface waters within the San Diego Region.
The U.S. Environmental Protection Agency and the California Regional Water Quality Control Board, San Diego Region, have classified these discharges as minor discharges. In accordance with Section 2200, Title 23 of the California Code of Regulations, the threat to water quality and complexity of the discharge is determined to be category 3C.	

Discharges of firework pollutant wastes by persons identified in Table 1 above from the discharge points identified below are subject to waste discharge requirements as set forth in this Order.

Table 2. Discharge Location

Discharge Point(s)	Discharge Description	Discharge Point Latitude(s)	Discharge Point Longitude(s)	Receiving Water(s)
Various Locations throughout San Diego Region	Fireworks pollutant wastes	Various	Various	Inland Surface Waters, Enclosed Bays and Estuaries, Harbors, Lagoons, Pacific Ocean

Table 3. Administrative Information

This Order was adopted by the California Water Quality Control Board, San Diego Region, on:	November 10, 2010
This Order shall become effective on:	February 18, 2011
This Order shall expire on:	February 17, 2016
Dischargers (also referred to as Enrollees) covered under this Order at the time of expiration will continue to be covered until coverage becomes effective under a reissued permit. Upon reissuance of this Order by the San Diego Water Board, Dischargers may need to seek re-enrollment under the revised Order.	

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on November 10, 2010.

TENTATIVE

David W. Gibson
Executive Officer

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I. DISCHARGE INFORMATION

This Order is intended to regulate pollutant waste discharges associated with the public display of fireworks to various receiving surface waters within the jurisdiction of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). The San Diego Region covers a large portion of San Diego County, portions of South Orange County, and the southwestern portion of Riverside County based on hydrologic drainage areas.

In this Order the public display of fireworks refers to an entertainment feature where the public or a private group is admitted to or permitted to view the display or discharge of fireworks. Public displays of fireworks (also referred to as a fireworks show or event) are conducted throughout the year at various locations within the San Diego Region. Typical fireworks constituents include, but are not limited to, aluminum, antimony, barium, carbon, calcium, chlorine, cesium, copper, iron, potassium, lithium, magnesium, oxidizers including nitrates, chlorates and perchlorates, phosphorus, sodium sulfur, strontium, titanium, and zinc. In addition, fireworks particulate matter and debris including stars, and un-ignited pyrotechnic material as well as paper, cardboard, wires and fuses from ignited pyrotechnic material can also adversely impact the quality of receiving waters. The receiving water area affected by these particulate matter and debris can vary depending on wind speed and direction, size of the shells, and other environmental and anthropogenic factors. The firework pollutant wastes have a potential to adversely affect, or contribute to degradation of, water and sediment quality within the receiving waters.

This Order requires implementation of Best Management Practices (BMPs) to ensure the pollutant waste discharges associated with the public display of fireworks do not cause pollution or nuisance conditions in surface waters within the San Diego Region.

II. PERMIT INFORMATION

A. Eligibility Criteria

1. Any person who discharges or proposes to discharge pollutant waste from the public display of fireworks to surface waters in the San Diego Region may submit a Notice of Intent (NOI) under this Order. When a fireworks event is sponsored by one person but is operated or conducted by another person, it is the sponsor's duty to submit an NOI and obtain enrollment under this Order. The San Diego Water Board may require the joint submission of an NOI from both the sponsor and the person operating the fireworks event on a case-by-case basis.

2. This Order is applicable to pollutant waste discharges associated with the public display of fireworks to surface waters within the San Diego Region.
3. To be authorized by this Order, Dischargers must demonstrate that the discharge or proposed discharge meets the following criteria:
 - a. Pollutant concentrations in the discharge shall not cause violation of any applicable water quality objective for the receiving waters, including Discharge Specifications of this Order; and
 - b. The discharge shall not cause acute or chronic toxicity in receiving waters;

B. Enrollment

To enroll under this Order a Discharger must submit the following items to the San Diego Water Board:

1. A completed Notice of Intent (NOI) form no later than 60 days prior to a fireworks event (see Attachment B); and
2. Payment of the annual application fee, equal to the first annual fee, made payable to State Water Resources Control Board or "SWRCB."

The NOI, including, the application fee, and other attachments must be submitted to the following address:

CRWQCB – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Attn: Fireworks General NPDES Order
NOTICE OF INTENT

C. Notice of Enrollment

Notice of Enrollment under this Order will be provided to the Discharger by the San Diego Water Board upon receipt of a complete NOI and application fee. The Notice of Enrollment may include additional or increased monitoring due to specific circumstances of the discharge, and any other additional requirements. The effective enrollment date will be specified in the Notice of Enrollment.

III. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), finds:

- A. **Background.** Public displays of fireworks are conducted throughout the year at various locations within the San Diego Region. Discharges from the public display of fireworks contain pollutants that have a potential to cause excursions of applicable water and sediment quality objectives. With the exception of SeaWorld San Diego, discharges associated with public fireworks events have previously been unregulated in the San Diego Region by the San Diego Water Board.

On December 17, 2007, the San Diego Water Board made revisions to the NPDES permit for SeaWorld San Diego (Order No. R9-2005-0091, NPDES No. CA0107336) to incorporate requirements for the discharge of waste associated with the public display of fireworks to Mission Bay. SeaWorld has nightly displays of fireworks during the summer months between April and September and other times during the year. Under the current Sea World Master Plan update, approved by the California Coastal Commission in 2001, Sea World may present up to 150 fireworks events per year, with an anticipated average between 110 and 120 events per year.

SeaWorld has conducted annual fireworks related monitoring for sediment and water quality parameters since 2001. In 2007 requirements for benthic infauna were also added. With the exception of Zinc, bis (2-ethylhexyl) phthalate, and perchlorate, water chemistry sampling to date, showed little evidence of pollutants within the receiving water column at levels above applicable water quality criteria or detected reference site levels. Comparison of the average concentrations of all the metals in water samples to California Toxics Rule (CTR) saltwater criteria shows that concentrations fall below both continuous exposure and maximum exposure concentrations.

SeaWorld's sediment chemistry monitoring results show higher levels of pollutants associated with fireworks events within the sediment in the fireworks deposition zone (FDZ), particularly for barium, chromium, cobalt, copper, silver and titanium. Results from short-term survival sediment toxicity sampling were highly variable spatially and temporally within the FDZ, and temporally within the reference sites. Samples in the reference sites and FDZ range from non-toxic to highly toxic making it difficult to detect any difference in short term toxicity. Discharges from SeaWorld's public fireworks events represent the highest level of water and sediment effects because 1) Mission Bay is unique due to the restricted circulation of waters within the bay, the shallow depth of the bay in the vicinity of the fireworks events, and 2) the high frequency of repeat fireworks events throughout the year at the same location results in maximum pollutant loading. Each water body however can exhibit different effects from firework

event discharges.

This Order requires the Dischargers to either form or join a regional water body-monitoring coalition or conduct individual monitoring. Monitoring coalitions enable the sharing of technical resources, trained personnel, and associated cost and increase an integrated water quality, sediment, and benthic monitoring program within specific water bodies potentially impacted by fireworks related waste. A monitoring coalition that has good spatial coverage will likely require fewer sampling locations than if an individual enrollee were to conduct a monitoring and reporting program on its own. Those Dischargers who choose not to join a regional water body-monitoring coalition will have sole responsibility for implementing the requirements of the Monitoring and Reporting Program.

For the purposes of this Order, references to the “discharger” or “permittee” in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Discharger herein.

- B. Discharge Description.** Public displays of fireworks in the San Diego Region are typically conducted over or adjacent to surface water bodies, including but not limited to, the San Diego River, San Diego Bay, Mission Bay, and the Pacific Ocean. Firework events may result in the release of pollutant wastes to these waters including, but not limited to aluminum, antimony, barium, carbon, calcium, chlorine, cesium, copper, iron, potassium, lithium, magnesium, oxidizers including nitrates, chlorates and perchlorates, phosphorus, sodium sulfur, strontium, titanium, and zinc. In addition, fireworks particulate matter and debris including stars, and un-ignited pyrotechnic material as well as paper, cardboard, wires and fuses from ignited pyrotechnic material can also adversely impact the quality of receiving waters. The receiving water area affected by these particulate matter and debris can vary depending on wind speed and direction, size of the shells, and other environmental and anthropogenic factors. The firework pollutant wastes have a potential to adversely affect, or contribute to degradation of, water and sediment quality within the receiving waters.
- C. Legal Authorities.** This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from this facility to surface waters. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the Water Code (commencing with section 13260).
- D. Background and Rationale for Requirements.** The San Diego Water Board developed the requirements in this Order based on available monitoring data and other available information related to the effects, characteristics, and regulation of firework pollutant waste discharges. The Fact Sheet (Attachment F), which contains background information and rationale for Order requirements, is hereby

incorporated into this Order and constitutes part of the Findings for this Order. Attachments A through F are also incorporated into this Order

- E. **California Environmental Quality Act (CEQA).** Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code sections 21100-21177.
- F. **Technology-based Effluent Limitations.** Section 301(b) of the CWA and implementing USEPA permit regulations at section 122.44, title 40 of the Code of Federal Regulations¹, require that permits include conditions meeting applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards. This Order does not contain technology based effluent limitations.

There are currently no applicable Effluent Limitation Guidelines (technology based requirements established by USEPA) for discharges associated with public displays of fireworks. The provisions of this Order require implementation of BMPs to control and abate the discharge of pollutants to surface waters. Dischargers enrolled under this Order are expected to comply with all water and sediment quality objectives through implementation of BMPs.

- G. **Water Quality-Based Effluent Limitations.** Section 301(b) of the CWA and section 122.44(d) require that permits include limitations more stringent than applicable federal technology-based requirements where necessary to achieve applicable water quality standards.

Section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant, but there is no numeric criterion or objective for the pollutant, water quality-based effluent limitations (WQBELs) must be established using: (1) USEPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in section 122.44(d)(1)(vi).

- H. **Water Quality Control Plans.** The San Diego Water Board adopted a Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994, and was subsequently approved by the State Water Board on December 13, 1994, that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those

¹ All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.

objectives in all receiving waters addressed through the plan. In addition, the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply. Beneficial uses applicable to the receiving waters within the San Diego Region are listed in Table 5. Requirements of this Order implement the Basin Plan.

Table 4. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Use(s)
Various	Coastal Waters (Pacific Ocean, Enclosed Bays and Estuaries, Harbors, and Lagoons)	Industrial service supply (IND), navigation (NAV), contact water recreation (REC1), non-contact water recreation (REC2), commercial and sport fishing (COMM), biological habitats of special significance (BIOL), estuarine habitats (EST), wildlife habitat (WILD), preservation of rare, threatened or endangered species (RARE), marine habitat (MAR), Aquaculture (AQUA), migration of aquatic organisms (MIGR), spawning (SPWN), and shellfish harvesting (SHELL).
Various	Inland Surface Waters	Municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), industrial process supply (PROC), ground water recharge (GWR), hydropower generation (POW), contact water recreation (REC1), non-contact water recreation (REC2), biological habitats of special significance (BIOL), warm freshwater habitat (WARM), cold freshwater habitat (COLD), wildlife habitat (WILD), preservation of rare, threatened or endangered species (RARE), spawning (SPWN).

- I. **California Ocean Plan.** The State Water Board adopted the *Water Quality Control Plan for Ocean Waters of California, California Ocean Plan* (Ocean Plan) in 1972 and amended it in 1978, 1983, 1988, 1990, 1997, 2000, and 2005. The State Water Board adopted the latest amendment on April 21, 2005 and it became effective on February 14, 2006. The Ocean Plan is applicable, in its entirety, to point source discharges to the ocean. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized below:

Table 5. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water	Beneficial Uses
Various	Pacific Ocean	Industrial water supply; water contact and non-contact recreation, including aesthetic enjoyment; navigation; commercial and sport fishing; mariculture; preservation and enhancement of designated Areas of Special Biological Significance (ASBS); rare and endangered species; marine habitat; fish spawning and shellfish harvesting

In order to protect the beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Requirements of this Order implement the Ocean Plan.

- J. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About forty criteria in the NTR applied in California. On May 18, 2000, USEPA adopted the CTR. The CTR promulgated new toxics criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the state. The CTR was amended on February 13, 2001. These rules contain water quality criteria for priority pollutants.
- K. **State Implementation Policy.** On March 2, 2000, the State Water Board adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). The SIP became effective on April 28, 2000 with respect to the priority pollutant criteria promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the San Diego Water Board in the Basin Plan. The SIP became effective on May 18, 2000 with respect to the priority pollutant criteria promulgated by the USEPA through the CTR. The State Water Board adopted amendments to the SIP on February 24, 2005 that became effective on July 13, 2005. The SIP establishes implementation provisions for priority pollutant criteria and objectives and provisions for chronic toxicity control. Requirements of this Order implement the SIP.
- L. **Sediment Quality Objectives.** On September 16, 2008 the State Water Resources Control Board adopted the *Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality* (Sediment Quality Plan). The Sediment Quality Plan became effective on August 25, 2009. The Sediment Quality Plan establishes 1) narrative sediment quality objectives for benthic community protection from exposure to contaminants in sediment and to protect human health, and 2) a program of implementation using a multiple lines of evidence approach to interpret the narrative sediment quality objectives.
- M. **Compliance Schedules and Interim Requirements.** Section 2.1 of the SIP provides that, based on a Discharger's request and demonstration that it is infeasible for an existing Discharger to achieve immediate compliance with an effluent limitation derived from a CTR criterion, compliance schedules may be allowed in an NPDES permit. Unless an exception has been granted under section 5.3 of the SIP, a compliance schedule may not exceed 5 years from the date that the permit is issued or reissued, nor may it extend beyond 10 years from the effective date of the SIP (or May 18, 2010) to establish and comply with CTR criterion-based effluent limitations. Where a compliance schedule for a final effluent limitation exceeds 1 year, the Order must include interim numeric limitations for that constituent or parameter. Where allowed by the Basin Plan, compliance schedules and interim effluent limitations or discharge specifications may also be granted to allow time to implement a new or revised water quality

objective. This Order does not include compliance schedules and interim effluent limitations and/or discharge specifications.

- N. **Alaska Rule.** On March 30, 2000, USEPA revised its regulation that specifies when new and revised state and tribal water quality standards (WQS) become effective for CWA purposes. (40 C.F.R. § 131.21; 65 Fed. Reg. 24641 (April 27, 2000).) Under the revised regulation (also known as the Alaska rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000 may be used for CWA purposes, whether or not approved by USEPA.
- O. **Stringency of Requirements for Individual Pollutants.** This Order requires the implementation of BMPs to protect water quality and beneficial uses.
- P. **Antidegradation Policy.** Section 131.12 requires that the state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The San Diego Water Board's Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. As discussed in detail in the Fact Sheet the permitted discharge is consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.
- Q. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at title 40, Code of Federal Regulations section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed.
- R. **Endangered Species Act.** This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). This Order requires compliance with effluent limits, receiving water limits, and other requirements to protect the beneficial uses of waters of the state. The discharger is responsible for meeting all requirements of the applicable Endangered Species Act.
- S. **Monitoring and Reporting.** Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorizes the Regional Water Boards to require technical and monitoring reports. The Monitoring and Reporting Program

establishes monitoring and reporting requirements to implement federal and State requirements. This Monitoring and Reporting Program is provided in Attachment E.

- T. **Standard and Special Provisions.** Standard Provisions, which apply to all NPDES permits in accordance with section 122.41, and additional conditions applicable to specified categories of permits in accordance with section 122.42, are provided in Attachment D. The San Diego Water Board has also included in this Order special provisions applicable to the Discharger. A rationale for the special provisions contained in this Order is provided in the attached Fact Sheet.
- U. **Provisions and Requirements Implementing State Law.** Certain provisions/requirements of this Order are included to implement state law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations.
- V. **Notification of Interested Parties.** The San Diego Water Board has notified interested agencies and persons of its intent to prescribe Waste Discharge Requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet of this Order.
- W. **Consideration of Public Comment.** The San Diego Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet of this Order.

THEREFORE, IT IS HEREBY ORDERED, that in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder and the provisions of the federal Clean Water Act (CWA) and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Order.

IV. DISCHARGE PROHIBITIONS

- A.** The discharge of fireworks related waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in Water Code section 13050, is prohibited.
- B.** The discharge of fireworks related waste shall not cause, have a reasonable potential to cause, or contribute to exceedances of any applicable criterion promulgated by USEPA pursuant to section 303 of the CWA, or water quality objective adopted by the State or regional boards.
- C.** The discharge of fireworks related waste to areas designated by the State Board as being Areas of Special Biological Significance (ASBS) is prohibited. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.
- D.** The discharge of fireworks related waste to waters within the San Diego Region is prohibited unless an NOI has been submitted, and the San Diego Water Board has provided the Discharger with a written Notice of Enrollment identifying the discharge subject to waste discharge requirements.
- E.** Compliance with Discharge Prohibitions contained in the Basin Plan is required as a condition of this Order.
- F.** Discharges of fireworks related waste in a manner, or to a location which have not been specifically regulated by waste discharge requirements of this Order are prohibited.
- G.** The discharge of fireworks related waste that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) is prohibited.

V. RECEIVING WATER LIMITATIONS

A. Surface Water Limitations

The discharge shall at all times be in conformance with applicable water quality standards and shall not cause an excursion above any applicable narrative or numeric water quality objective, including but not limited to all applicable provisions contained in:

1. The San Diego Water Board's *Water Quality Control Plan for the San Diego Basin* (Basin Plan), including beneficial uses, water quality objectives, and implementation plans;
2. State Water Board plans for water quality control including the:
 - a) Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries (Thermal Plan), and
 - b) The *California Ocean Plan* (Ocean Plan), including beneficial uses, water quality objectives, and implementation plans;
3. State Water Board policies for water and sediment quality control including the
 - a) Water Quality Control Policy for the Enclosed Bays and Estuaries of California,
 - b) Policy for Implementation of Toxics Standards for Inland Surface Waters, and Enclosed Bays, and Estuaries of California;
 - c) State Water Resources Control Board's Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality which includes the following narrative objectives
 - (1) Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities; and
 - (2) Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health.
 - d) The *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (State Water Board Resolution No. 68-16) and
4. Priority pollutant criteria promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the:

- a) *National Toxics Rule* (NTR)² (promulgated on December 22, 1992 and amended on May 4, 1995) and
- b) *California Toxics Rule* (CTR)^{3, 4}

B. Groundwater Limitations- Not Applicable

VI. PROVISIONS

A. Standard Provisions

1. The Discharger shall comply with all Standard Provisions included in Attachment D of this Order.
2. San Diego Water Board Standard Provisions. The Discharger shall comply with the following provisions:
 - a. The Discharger shall comply with all requirements and conditions of this Order. Any permit non-compliance constitutes a violation of the Clean Water Act (CWA) or the California Water Code (CWC) and is grounds for enforcement action, permit termination, revocation and reissuance, or modification, or for denial of an application for permit renewal, modification, or reissuance.
 - b. The Discharger shall comply with all applicable federal, state, and local laws and regulations for handling, transport, treatment, or disposal of waste or the discharge of waste to waters of the state in a manner which causes or threatens to cause a condition of pollution, contamination or nuisance as those terms are defined in CWC 13050.
 - c. No discharge of waste into waters of the state, whether or not the discharge is made pursuant to waste discharge requirements (WDR) , shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.
 - d. For the purposes of this Order, the term “permittee” used in parts of 40 CFR incorporated into this Order by reference and/or applicable to this Order shall have the same meaning as the term “Discharger” or “Enrollee” used elsewhere in this Order.
 - e. This Order expires on February 17, 2016, after which, the terms and conditions of this Order are automatically continued pending issuance of a

² 40 CFR 131.36

³ 65 Federal Register 31682-31719 (May 18, 2000), adding Section 131.38 to 40 CFR

⁴ If a water quality objective and a CTR criterion are in effect for the same priority pollutant, the more stringent of the two applies

new WDR, provided that all requirements of USEPA's NPDES regulations at 40 CFR 122.6 and the State's regulations at CCR Title 23, Section 2235.4 regarding the continuation of expired Orders and waste discharge requirements are met.

- f. A copy of this Order shall be made available to all personnel/staff (including field staff) involved with the compliance of this Order.
- g. The Discharger shall comply with any interim limitations established by addendum, enforcement action, or revised waste discharge requirements that have been or may be adopted by the San Diego Water Board.
- h. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing discharges of fireworks pollutant wastes, may subject the Discharger to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject the Discharger to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.
- i. In the event the Discharger does not comply or will be unable to comply for any reason, with any prohibition, effluent limitation, discharge specification, or receiving water limitation of this Order, the Discharger shall notify the San Diego Water Board by telephone (858) 467-2952 within 24 hours of having knowledge of such noncompliance, and shall confirm this notification in writing within five days, unless the San Diego Water Board waives confirmation. The written notification shall contain a description of the noncompliance and its cause; the period of non-compliance including exact dates and times, and if noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- j. The Discharger is required to retain records, including all monitoring information and copies of all reports required by this Order, for five years unless directed otherwise by the San Diego Water Board.
- k. This Order may be modified, revoked and reissued, or terminated for cause due to promulgation of amended regulations, receipt of USEPA guidance concerning regulated activities, judicial decision, or in accordance with 40 Code of Federal Regulations (CFR) 122.62, 122.63, 122.64, and 124.5.
- l. Enrollment in this Order is temporary. Dischargers enrolled in this Order planning to discharge fireworks related waste after the expiration date of February 17, 2016 may be subject to new prohibitions or requirements based on the re-issuance of this Order after February 17, 2016.

- m. The enrollee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order and the Notice of Enrollment from the San Diego Water Board, including such accelerated or additional monitoring as may be necessary to determine the nature, and effect of the non-complying discharge.
- n. This Order or the Notice of Enrollment from the San Diego Water Board, may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - (1) Violation of any terms or conditions of this Order or the Notice of Enrollment from the San Diego Water Board;
 - (2) Obtaining enrollment under this Order, or a Notice of Enrollment from the San Diego Water Board, by misrepresentation or failure to disclose fully all relevant facts;
 - (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the discharge subject to waste discharge requirements; or
 - (4) A finding that monitoring "indicator" pollutants listed in this Order do not ensure compliance with water quality criteria or objectives for the pollutants expected to be represented by the "indicator" pollutants.
- o. The filing of a request by the Discharger for modification, revocation and reissuance, or termination of this Order or an associated discharge Notice of Enrollment from the San Diego Water Board, or a notification of planned change in or anticipated noncompliance with this Order or discharge Notice of Enrollment does not stay any condition of this Order or the Notice of Enrollment from the San Diego Water Board.
- p. Notwithstanding Provision 2.k. above, if any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the San Diego Water Board may institute proceedings under these regulations to modify or revoke and reissue this Order to conform to the toxic effluent standard or prohibition.

- q. In addition to any other grounds specified herein, this Order or a Notice of Enrollment from the San Diego Water Board shall be modified or revoked at any time if, on the basis of any data, the San Diego Water Board determines that continued discharges may cause unreasonable degradation of the aquatic environment.
- r. The San Diego Water Board or the Director of the USEPA may require any person requesting enrollment under this Order or subject to waste discharge requirements under this Order to apply for and obtain an individual NPDES permit. Cases where an individual NPDES permit may be required include but are not limited to those described in 40 CFR 122.28 (b)(3).
- s. It shall not be a defense for the enrollee in an enforcement action that effluent limitation violations are a result of analytical variability rendering the results inaccurate. The validity of the testing results, whether or not the enrollee has monitored or sampled more frequently than required by this Order, shall not be a defense to an enforcement action.
- t. The Discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this Order which has a reasonable likelihood of adversely affecting human health or the environment.
- u. For the purposes of this Order, the term permit, general permit, and WDR, shall have the same meaning as the term Order used elsewhere in this Order.

B. Monitoring and Reporting Program (MRP) Requirements

The Discharger shall comply with the MRP and future revisions thereto in Attachment E of this Order.

C. Special Provisions

1. Reopener Provisions

Order No. R9-2010-0124 may be re-opened and modified, revoked, and reissued or terminated in accordance with the provisions of 40 CFR 122, 123, 124, and 125. The San Diego Water Board may reopen the permit to modify permit conditions and requirements. Causes for modifications include the promulgation of new regulations or adoption of new regulations by the State Water Board or San Diego Water Board, including revisions to the Basin Plan.

2. Special Studies, Technical Reports and Additional Monitoring Requirements – Not Applicable

3. Best Management Practices and Pollution Prevention

The Discharger shall prepare and implement BMP's to prevent or reduce the discharge of pollutants associated with the public display of fireworks. The BMP's shall contain, at a minimum, the following procedures:

- a. Whenever practicable and economically feasible, the Discharger shall consider the use of "environmentally friendly" fireworks produced with new pyrotechnic formulas that replace perchlorate with other oxidizers and propellants that burn cleaner, produce less smoke and have a lower pollutant waste loading to surface waters.
- b. Fireworks displays on barges shall be set up in accordance with the requirements, and under the supervision of, the Fire Department. The "mortars" used to hold and launch the fireworks shall be secured properly and use fire-retardant material, such as sand, in accordance with local codes. Barges shall be inspected for leaks and other potential safety issues. Wires used to trigger the fireworks shall be secured on the barges to prevent the wires from being pulled into the air and falling into the water.
- c. Fireworks shall be packaged, transported, stored, set-up, and handled in accordance with California Code of Regulations, Title 19, Division 1, Chapter 6, *Fireworks* and Title 22, Chapter 33, *Best Management Practices for Perchlorate Materials* in order to prevent or minimize firework pollutant wastes from entering surface waters.
- d. All debris including fuses, wires, and wrappings shall be properly disposed in trash receptacles as the display is set up.
- e. Within 24 hours following a public display of fireworks or the use of dangerous fireworks, the Discharger shall, in addition to complying with title 19 of the California Code of Regulations, section 1003, shall, to the extent practical, collect, remove, and manage any stars and un-ignited pyrotechnic material found during the required inspection of the entire firing range. The Discharger shall also inspect shorelines, quays, and docks adjacent to the public fireworks event and to the extent practical, collect, remove, and manage any fireworks solid waste such as cardboard, paper, or other debris.

For fireworks displays on barges, the decks of each barge shall be swept to prevent debris and other solid waste from blowing into the water. The barges will be returned to the loading/setup yard facility to be further cleaned and to have the mortars removed.

- f. Immediately after each fireworks event and as soon as practicable, a cleanup crew shall conduct several sweeps of the fireworks deposition

zone (FDZ) to gather floating debris from spent fireworks using hand held fishnets or pool skimmers.

- g. Unexploded fireworks, including duds and misfires, shall be collected and removed immediately following the display and returned directly to the wholesaler/manufacturer. Collected material must be managed as hazardous waste.
- h. Maintenance of a written log documenting completion of all activities conducted to implement the required minimum stipulated BMPs of this Order, any additional BMPs employed, the amounts of fireworks debris collected, the dates, times and visual observations noted for after event firing range inspections and any other pertinent information. This log shall be completed within 5 days following each public fireworks event and shall be made available to the San Diego Water Board upon request.

4. Construction, Operation and Maintenance Specifications- Not Applicable

5. Special Provisions for Municipal Facilities (POTWs Only) – Not Applicable

6. Other Special Provisions – Not Applicable

7. Compliance Schedules – Not Applicable

VII. COMPLIANCE DETERMINATION

This Order requires the use of minimum stipulated BMPs to control and abate the discharge of pollutant wastes from public fireworks events to surface waters in the San Diego Region. Proper implementation of the BMPs will assure the protection of water and sediment quality within the receiving waters. Dischargers enrolled under this Order are expected to comply with all water and sediment quality objectives through the implementation of BMPs. Compliance will be determined by evaluating the proper implementation of the minimum stipulated BMPs and their effectiveness in preventing and minimizing pollutant waste loading from public fireworks events to surface waters. Compliance will also be evaluated using information obtained under the monitoring and reporting program of this Order.

ATTACHMENT A – DEFINITIONS

Acute Toxicity

Acute Toxicity (TUa)

Expressed in Toxic Units Acute (TUa)

$$TUa = \frac{100}{\frac{96\text{-hr LC}}{50\%}}$$

Lethal Concentration 50% (LC 50)

LC 50 (percent waste giving 50% survival of test organisms) shall be determined by static or continuous flow bioassay techniques using standard marine test species as specified in Ocean Plan Appendix III. If specific identifiable substances in wastewater can be demonstrated by the discharger as being rapidly rendered harmless upon discharge to the marine environment, but not as a result of dilution, the LC 50 may be determined after the test samples are adjusted to remove the influence of those substances.

When it is not possible to measure the 96-hour LC 50 due to greater than 50 percent survival of the test species in 100 percent waste, the toxicity concentration shall be calculated by the expression:

$$TUa = \frac{\log(100 - S)}{1.7}$$

where:

S = percentage survival in 100% waste. If S > 99, TUa shall be reported as zero.

Areas of Special Biological Significance (ASBS)

Those areas designated by the State Water Board as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable. All Areas of Special Biological Significance are also classified as a subset of STATE WATER QUALITY PROTECTION AREAS.

Break

An individual burst from an aerial shell, producing either a visible or audible effect or both, and may consist of a single burst or multiple effects.

Carcinogenic

Pollutants are substances that are known to cause cancer in living organisms.

Chronic Toxicity

This parameter shall be used to measure the acceptability of waters for supporting a healthy marine biota until improved methods are developed to evaluate biological response.

Chronic Toxicity (TU_c)

Expressed as Toxic Units Chronic (TU_c)

$$TU_c = \frac{100}{NOEL}$$

No Observed Effect Level (NOEL)

The NOEL is expressed as the maximum percent effluent or receiving water that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test listed in Ocean Plan Appendix II.

Daily Discharge

Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any 24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

For composite sampling, if 1 day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

Degrade

Degradation shall be determined by comparison of the waste field and reference site(s) for characteristic species diversity, population density, contamination, growth anomalies, debility, or supplanting of normal species by undesirable plant and animal species. Degradation occurs if there are significant differences in any of three major biotic groups, namely, demersal fish, benthic invertebrates, or attached algae. Other groups may be evaluated where benthic species are not affected, or are not the only ones affected.

Detected, but Not Quantified (DNQ)

Sample results that are less than the reported Minimum Level, but greater than or equal to the laboratory's MDL.

Downstream Ocean Waters

Waters downstream with respect to ocean currents.

Dud

A pyrotechnic item which leaves the mortar and returns to earth without producing the intended burst or effect.

Enclosed Bays

Indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. This definition includes but is not limited to: Humboldt Bay, Bodega Harbor, Tomales Bay, Drakes Estero, San Francisco Bay, Morro Bay, Los Angeles Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay.

Estuaries and Coastal Lagoons are waters at the mouths of streams that serve as mixing zones for fresh and ocean waters during a major portion of the year. Mouths of streams that are temporarily separated from the ocean by sandbars shall be considered as estuaries. Estuarine waters will generally be considered to extend from a bay or the open ocean to the upstream limit of tidal action but may be considered to extend seaward if significant mixing of fresh and salt water occurs in the open coastal waters. The waters described by this definition include but are not limited to the Sacramento-San Joaquin Delta as defined by Section 12220 of the California Water Code, Suisun Bay, Carquinez Strait downstream to Carquinez Bridge, and appropriate areas of the Smith, Klamath, Mad, Eel, Noyo, and Russian Rivers.

Fireworks Deposition Zone

The aerial extent of fireworks particles and/or debris created by a single public fireworks event within the affected surface waters.

Fireworks Event

Fireworks event means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks.

Firing Range

The firing range includes the fireworks launching area and adjacent shorelines, quays, docks and the fireworks deposition zone.

Inland Surface Waters

All surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

Kelp Beds

For purposes of the bacteriological standards of the Ocean Plan, are significant aggregations of marine algae of the genera Macrocystis and Nereocystis. Kelp beds include the total foliage canopy of Macrocystis and Nereocystis plants throughout the water column.

Mariculture

The culture of plants and animals in marine waters independent of any pollution source.

Method Detection Limit (MDL)

The minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in title 40 of the Code of Federal Regulations, Part 136, Attachment B.

Minimum Level (ML)

The concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

Misfire

A pyrotechnic item which fails to function as designed after initiation

Mortar

A cylinder that is used to hold and fire public display or special effects pyrotechnic items or compositions

Multiple Break

Aerial shell which has two or more breaks.

Natural Light

Reduction of natural light may be determined by the San Diego Water Board by measurement of light transmissivity or total irradiance, or both, according to the monitoring needs of the San Diego Water Board.

Net Explosive Weight

Net explosive weight” means the weight of all pyrotechnic compositions, explosives material, and fuse only.

Not Detected (ND)

Those sample results less than the laboratory’s MDL.

Ocean Waters

The territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. If a discharge outside the territorial waters of the state could affect the quality of the waters of the state, the discharge may be regulated to assure no violation of the Ocean Plan will occur in ocean waters.

Person

Person means an individual, association, partnership, corporation, city, county, district, state or federal agency, or an agent or employee thereof, to the extent authorized by federal law.

Pollutant

40 CFR 122.2 defines “pollutant” to mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,

radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean: (a) Sewage from vessels; or (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources. NOTE: Radioactive materials covered by the Atomic Energy Act are those encompassed in its definition of source, byproduct, or special nuclear materials. Examples of materials not covered include radium and accelerator-produced isotopes. See *Train v. Colorado Public Interest Research Group, Inc.*, 426 U.S. 1 (1976).

Pyrotechnic operator

Pyrotechnic operator means any licensed pyrotechnic operator, who by examination, experience, and training, has demonstrated the required skill and ability in the use and discharge of fireworks as authorized by the license granted.

Pollutant Minimization Program (PMP)

PMP means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of Ocean Plan Table B pollutants through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The San Diego Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

Reported Minimum Level

The ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the San Diego Water Board either from Appendix II of the Ocean Plan in accordance with section III.C.5.a. of the Ocean Plan or established in accordance with section III.C.5.b. of the Ocean Plan. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the reported ML.

Salute

An aerial shell as well as other pyrotechnic items whose primary effects are detonation and flash of light.

Shellfish

Organisms identified by the California Department of Health Services as shellfish for public health purposes (i.e., mussels, clams and oysters).

Significant Difference

Defined as a statistically significant difference in the means of two distributions of sampling results at the 95 percent confidence level.

Star

“Star” means a small pellet of composition that produces a pyrotechnic effect. A single aerial firework shell could contain several hundred stars

State Water Quality Protection Areas (SWQPAs)

Non-terrestrial marine or estuarine areas designated to protect marine species or biological communities from an undesirable alteration in natural water quality. All AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE (ASBS) that were previously designated by the State Water Board in Resolution Nos. 74-28, 74-32, and 75-61 are now also classified as a subset of State Water Quality Protection Areas and require special protections afforded by the Ocean Plan.

Toxicity Reduction Evaluation (TRE)

A study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.)

Waste

CWC section 13050(d) provides that “Waste” includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

ATTACHMENT B – NOTICE OF INTENT

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF THE GENERAL WASTE DISCHARGE REQUIREMENTS FOR THE PUBLIC DISPLAY OF FIREWORKS WITHIN THE SAN DIEGO REGION ORDER NO. R9-2010-0124, NPDES NO. CAG999002

I. STIPULATION OF APPLICABILITY

- ☐ **<DISCHARGER NAME>** has reviewed the eligibility criteria of this Order as stated below and hereby certifies that the criteria is met.

Eligibility Criteria

Any person who discharges or proposes to discharge pollutant waste from the public display of fireworks to surface waters in the San Diego Region may submit a Notice of Intent (NOI) under this Order. When a fireworks event is sponsored by one person but is operated or conducted by another person, it is the sponsor's duty to submit an NOI and obtain enrollment under this Order. The San Diego Water Board may require the joint submission of an NOI from both the sponsor and the person operating the fireworks event on a case-by-case basis.

- ☐ **<DISCHARGER NAME>** has reviewed this Order and hereby certifies that:

1. **<DISCHARGER NAME>** understands the requirements of Order No. R9-2010-0124.; and
2. **<DISCHARGER NAME>** will comply with all terms, conditions, and requirements of Order No. R9-2010-0124.

II. DISCHARGER INFORMATION

Discharger Name:			
Mailing Address			
City	State	ZIP	Phone
Contact Person Name and Title			
Contact Person e-mail			

Attachment B –Notice of Intent (Version 9/23/2010)

Discharger Name: _____

WDID: _____

III. BILLING INFORMATION

<input type="checkbox"/> Same as Discharger Information			
Discharger Name:			
Mailing Address			
City	State	ZIP	Phone
Contact Person Name and Title			
Contact Person e-mail			

IV. APPLICATION FEE

<p>The initial fee and annual fee are based upon the type of pollutants to be discharged or potentially discharged.</p> <p>Make checks payable to “State Water Resources Control Board” and include “Fireworks General NPDES Order” in the check memo field.</p> <p>Category 3 Lowest Threat to Water Quality Discharges that require minimal or no treatment systems to meet limits and pose no significant threat to the environment in accordance with California Code Of Regulations Title 23. Division 3. Chapter 9. Waste Discharge Reports And Requirements Article 1. Fees. (Fees amounts are subject to change. The fee for enrollment under this Order as of September 23, 2010 is \$1,200 plus \$252 surcharge = \$1,452)</p>
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V. CERTIFICATION

<i>I certify under penalty of law that the information provided in this application and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those directly responsible for gathering the information, the information submitted is true, accurate, and complete to the best of my knowledge and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the permit, including the criteria for eligibility will be complied with.</i>	
Printed Name:	
Signature*:	Date:
Title:	

* The appropriate person must sign the application form. See Standard Provision V.B.1 Signatory and Certification Requirements. Acceptable signatures are:

1. for a corporation, a principal executive officer of at least the level of senior vice-president;
2. for a partnership or individual (sole proprietorship), a general partner or the proprietor;
3. for a governmental or public agency, either a principal executive officer or ranking elected/appointed official.

Attachment B –Notice of Intent (Version 9/23/2010)

Discharger Name: _____

WDID: _____

VI. SAN DIEGO WATER BOARD USE ONLY

WDID:	Staff Initials:	Status: <input type="checkbox"/> Complete <input type="checkbox"/> Incomplete <input type="checkbox"/> Withdrawn <input type="checkbox"/> Pending Additional Information
Date NOI Received:	Check No.:	
Date NOI Processed:	Fee Amount Received: \$	
CIWQS Place ID:	CIWQS Reg. Meas. ID:	
Comments:		

Submit the NOI and application fee to the following address:

CRWQCB – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Attn: Fireworks General NPDES Order
NOTICE OF INTENT

Attachment B –Notice of Intent (Version 9/23/2010)

Discharger Name: _____

WDID: _____

ATTACHMENT C – PUBLIC DISPLAY OF FIREWORKS EVENT NOTIFICATION FORM

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

PUBLIC DISPLAY OF FIREWORKS EVENT NOTIFICATION

The following information shall be submitted no later than 30 days before a public display of fireworks event

Completed forms may be submitted electronically by email, fax at (858) 571-6972, or mail to the San Diego Water Board office

I. EVENT INFORMATION

Name of Organization Sponsoring the Event:
Name of Event:
Contact Person for Organization Sponsoring the Event: Name: Phone Number: Email:
Name and License No. of Pyrotechnic Operators
1.
2.
3.
Location of Event
Date, Time and Duration of Event
Affected Receiving Water(s)
Adjacent Shoreline(s). Quays and Docks
Description of the number, size, net explosive weight, solid rocket motor gross weight and classification of all fireworks to be discharged including the number of set pieces, shells, and other items. Shells shall be designated by diameter specifying single, multiple break or salute.

Please attach the following to this notification:

- Documentary proof that all required permits and licenses for the public display of fireworks event have been obtained (i.e. State Fire Marshal's License, United State Coast Guard Marine Event Permit, etc.)
- A map or diagram identifying the grounds on which the fireworks event is to be held. The map should identify the fireworks launching area, the affected receiving water and adjacent shorelines, quays, and the fireworks deposition zone and any other appropriate features of the firing range.

II. CERTIFICATION

I certify under penalty of law that the information provided in this application and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those directly responsible for gathering the information, the information submitted is true, accurate, and complete to the best of my knowledge and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the permit, including the criteria for eligibility will be complied with.

Printed Name:

Signature:

Date:

Title:

III. SAN DIEGO WATER BOARD USE ONLY

WDID:	Staff Initials:	Status: <input type="checkbox"/> Complete <input type="checkbox"/> Incomplete <input type="checkbox"/> Withdrawn <input type="checkbox"/> Pending Additional Information
Date Fireworks Event Notification was Received:	Date Fireworks Event Notification was Processed:	
CIWQS Place ID:	CIWQS Reg. Meas. ID:	
Comments:		

ATTACHMENT D – STANDARD PROVISIONS

I. STANDARD PROVISIONS – PERMIT COMPLIANCE

A. Duty to Comply

1. The Discharger shall comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. (40 C.F.R. § 122.41(a).)
2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement. (40 C.F.R. § 122.41(a)(1).)

B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order. (40 C.F.R. § 122.41I.)

C. Duty to Mitigate

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment. (40 C.F.R. § 122.41(d).)

D. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order. (40 C.F.R. § 122.41(e).)

E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges. (40 C.F.R. § 122.41(g).)

2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. (40 C.F.R. § 122.51.)

F. Inspection and Entry

The Discharger shall allow the San Diego Water Board, State Water Board, United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to (40 C.F.R. § 122.41(i); Water Code, § 13383):

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order (40 C.F.R. § 122.41(i)(1));
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order (40 C.F.R. § 122.41(i)(2));
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order (40 C.F.R. § 122.41(i)(3)); and
4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the Water Code, any substances or parameters at any location. (40 C.F.R. § 122.41(i)(4).)

G. Bypass

1. Definitions
 - a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. (40 C.F.R. § 122.41(m)(1)(i).)
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (40 C.F.R. § 122.41(m)(1)(ii).)
2. Bypass not exceeding limitations. The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance I.G.3, I.G.4, and I.G.5 below. (40 C.F.R. § 122.41(m)(2).)

3. Prohibition of bypass. Bypass is prohibited, and the San Diego Water Board may take enforcement action against a Discharger for bypass, unless (40 C.F.R. § 122.41(m)(4)(i)):
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (40 C.F.R. § 122.41(m)(4)(i)(A));
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance (40 C.F.R. § 122.41(m)(4)(i)(B)); and
 - c. The Discharger submitted notice to the San Diego Water Board as required under Standard Provisions – Permit Compliance I.G.5 below. (40 C.F.R. § 122.41(m)(4)(i)l.)
4. The San Diego Water Board may approve an anticipated bypass, after considering its adverse effects, if the San Diego Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above. (40 C.F.R. § 122.41(m)(4)(ii).)
5. Notice
 - a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass. (40 C.F.R. § 122.41(m)(3)(i).)
 - b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions – Reporting V.E below (24-hour notice). (40 C.F.R. § 122.41(m)(3)(ii).)

H. Upset

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (40 C.F.R. § 122.41(n)(1).)

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance I.H.2 below are met. No determination made during administrative review of claims that noncompliance was

caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. (40 C.F.R. § 122.41(n)(2).)

2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that (40 C.F.R. § 122.41(n)(3)):
 - a. An upset occurred and that the Discharger can identify the cause(s) of the upset (40 C.F.R. § 122.41(n)(3)(i));
 - b. The permitted facility was, at the time, being properly operated (40 C.F.R. § 122.41(n)(3)(ii));
 - c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) (40 C.F.R. § 122.41(n)(3)(iii)); and
 - d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above. (40 C.F.R. § 122.41(n)(3)(iv).)
3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof. (40 C.F.R. § 122.41(n)(4).)

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition. (40 C.F.R. § 122.41(f).)

B. Duty to Reapply

If the Discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the Discharger must apply for and obtain a new permit. (40 C.F.R. § 122.41(b).)

C. Transfers

This Order is not transferable to any person except after notice to the San Diego Water Board. The San Diego Water Board may require modification or revocation and reissuance of the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the CWA and the Water Code. (40 C.F.R. § 122.41(l)(3); § 122.61.)

III. STANDARD PROVISIONS – MONITORING

- A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. (40 C.F.R. § 122.41(j)(1).)
- B. Monitoring results must be conducted according to test procedures under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503 unless other test procedures have been specified in this Order. (40 C.F.R. § 122.41(j)(4); § 122.44(i)(1)(iv).)

IV. STANDARD PROVISIONS – RECORDS

- A. Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by Part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the San Diego Water Board Executive Officer at any time. (40 C.F.R. § 122.41(j)(2).)
- B. **Records of monitoring information shall include:**
 - 1. The date, exact place, and time of sampling or measurements (40 C.F.R. § 122.41(j)(3)(i));
 - 2. The individual(s) who performed the sampling or measurements (40 C.F.R. § 122.41(j)(3)(ii));
 - 3. The date(s) analyses were performed (40 C.F.R. § 122.41(j)(3)(iii));
 - 4. The individual(s) who performed the analyses (40 C.F.R. § 122.41(j)(3)(iv));
 - 5. The analytical techniques or methods used (40 C.F.R. § 122.41(j)(3)(v)); and
 - 6. The results of such analyses. (40 C.F.R. § 122.41(j)(3)(vi).)
- C. **Claims of confidentiality for the following information will be denied (40 C.F.R. § 122.7(b)):**
 - 1. The name and address of any permit applicant or Discharger (40 C.F.R. § 122.7(b)(1)); and
 - 2. Permit applications and attachments, permits and effluent data. (40 C.F.R. § 122.7(b)(2).)

V. STANDARD PROVISIONS – REPORTING

A. Duty to Provide Information

The Discharger shall furnish to the San Diego Water Board, State Water Board, or USEPA within a reasonable time, any information which the San Diego Water Board, State Water Board, or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Discharger shall also furnish to the San Diego Water Board, State Water Board, or USEPA copies of records required to be kept by this Order. (40 C.F.R. § 122.41(h); Water Code, § 13267.)

B. Signatory and Certification Requirements

1. All applications, reports, or information submitted to the San Diego Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.1.a, V.B.1.b, V.B.1.c, V.B.2, V.B.3, and V.B.4 below. (40 C.F.R. § 122.41(k).)
 - a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. (40 C.F.R. § 122.22(a)(1).)
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively. (40 C.F.R. § 122.22(a)(2).)
 - c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA). (40 C.F.R. § 122.22(a)(3).)
2. All reports required by this Order and other information requested by the San Diego Water Board, State Water Board, or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above (40 C.F.R. § 122.22(b)(1));
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) (40 C.F.R. § 122.22(b)(2)); and
 - c. The written authorization is submitted to the San Diego Water Board and State Water Board. (40 C.F.R. § 122.22(b)(3).)
3. If an authorization under Standard Provisions – Reporting V.B.3 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard Provisions – Reporting V.B.3 above must be submitted to the San Diego Water Board and State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 C.F.R. § 122.22(i).)
 4. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.” (40 C.F.R. § 122.22(d).)

C. Monitoring Reports

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this Order. (40 C.F.R. § 122.22(l)(4).)
2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the San Diego Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. (40 C.F.R. § 122.41(l)(4)(i).)
3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the San Diego Water Board. (40 C.F.R. § 122.41(l)(4)(ii).)

4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order. (40 C.F.R. § 122.41(l)(4)(iii).)

D. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order, shall be submitted no later than 14 days following each schedule date. (40 C.F.R. § 122.41(l)(5).)

E. Twenty-Four Hour Reporting

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. (40 C.F.R. § 122.41(l)(6)(i).)
2. The following shall be included as information that must be reported within 24 hours under this paragraph (40 C.F.R. § 122.41(l)(6)(ii)):
 - a. Any unanticipated bypass that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(A).)
 - b. Any upset that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(B).)
3. The San Diego Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours. (40 C.F.R. § 122.41(l)(6)(iii).)

F. Planned Changes

The Discharger shall give notice to the San Diego Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when (40 C.F.R. § 122.41(l)(1)):

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b) (40 C.F.R. § 122.41(l)(1)(i)); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Order. (40 C.F.R. § 122.41(l)(1)(ii).)

3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. (40 C.F.R. § 122.41(l)(1)(iii).)

G. Anticipated Noncompliance

The Discharger shall give advance notice to the San Diego Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements. (40 C.F.R. § 122.41(l)(2).)

H. Other Noncompliance

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above. (40 C.F.R. § 122.41(l)(7).)

I. Other Information

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the San Diego Water Board, State Water Board, or USEPA, the Discharger shall promptly submit such facts or information. (40 C.F.R. § 122.41(l)(8).)

VI. STANDARD PROVISIONS – ENFORCEMENT

- A. The San Diego Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13385, 13386, and 13387

VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS

A. Non-Municipal Facilities – Not Applicable

ATTACHMENT E – MONITORING AND REPORTING PROGRAM

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ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)

The Code of Federal Regulations section 122.48 requires that all NPDES permits specify monitoring and reporting requirements. Water Code Sections 13267 and 13383 also authorize the San Diego Water Board to require technical and monitoring reports. This MRP establishes monitoring and reporting requirements, which implement the federal and California regulations.

I. GENERAL MONITORING PROVISIONS

- A. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. Another waste stream, body of water, or substance shall not dilute the monitored discharge.
- B. Monitoring must be conducted according to USEPA test procedures approved under 40 CFR section 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act as amended, unless other test procedures are specified in this Order and/or by the appropriate San Diego Water Board. Monitoring for total residual chlorine, total dissolved solids, temperature, and pH may be done using an appropriate field measurement device.
- C. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR section 136, or as specified in this Order or by the appropriate San Diego Water Board, the results of the monitoring shall be included in the calculation and reporting of the data submitted in the Discharger's Annual Report. The increased frequency of monitoring shall also be reported.
- D. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.
- E. Use of flow measurement devices and methods shall be consistent with industry practices. All monitoring instruments and devices used by the Discharger to fulfill the monitoring program shall be properly maintained and calibrated to ensure reliability and accuracy.
- F. If laboratory services are used, records and monitoring information shall include:
 - 1. The date, exact location, and time of sampling or measurements;
 - 2. The name(s) of individual(s) who performed the sampling or measurements;
 - 3. The date(s) analysis were performed;
 - 4. The name(s) of the laboratory and individual(s) who performed the analyses;
 - 5. The analytical techniques or methods used; and
 - 6. The results of such analyses

II. MONITORING LOCATIONS

Various locations within the San Diego Region.

III. INFLUENT MONITORING REQUIREMENTS – NOT APPLICABLE

IV. EFFLUENT MONITORING REQUIREMENTS- NOT APPLICABLE

V. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS – NOT APPLICABLE

VI. LAND DISCHARGE MONITORING REQUIREMENTS – NOT APPLICABLE

VII. RECLAMATION MONITORING REQUIREMENTS – NOT APPLICABLE

VIII. RECEIVING WATER MONITORING REQUIREMENTS – SURFACE WATER

Dischargers may form or join a regional water body-monitoring coalition or alternatively may choose to conduct individual monitoring. Monitoring coalitions enable the sharing of technical resources, trained personnel, and associated cost and increase an integrated water and sediment quality monitoring program within specific water bodies potentially affected by fireworks pollutant wastes. A monitoring coalition that has good spatial coverage will likely require fewer sampling locations than if an individual discharger were to conduct a monitoring and reporting program on its own.

Those Dischargers who choose not to join a regional water body-monitoring coalition will have sole responsibility for implementing the requirements of the Sediment Monitoring Plan described below for their public fireworks events. Each regional water body monitoring coalition shall have joint responsibility for implementing the requirements of the Sediment Monitoring Plan described below:

- A. **Sediment Monitoring Plan.** The Discharger or regional water body monitoring coalition shall prepare and submit a Sediment Monitoring Plan no later than 180 days of enrollment under this Order to assess compliance with Receiving Water Limitations V.A.3.c)(1) and (2). The Sediment Monitoring Plan shall contain the following elements:
 1. **Quality Assurance Project Plan.** A Quality Assurance Project Plan (QAPP) describing the project objectives and organization, functional activities, and quality assurance/quality control protocols for the sediment monitoring.
 2. **Sampling and Analysis Plan.** A Sampling and Analysis Plan based on methods or metrics described in the State Water Resources Control Board's Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (Effective August 25, 2010), Section V, Benthic Community Protection.
 3. **Conceptual Model.** A Conceptual Model identifying the physical and chemical factors that control the fate and transport of pollutants and receptors that could be exposed to pollutants in the sediment. The Conceptual Model will serve as the

basis for assessing the appropriateness of the Sediment Monitoring Plan design. The Conceptual Model shall consider:

- a. Points of discharge into the segment of the waterbody or region of interest;
- b. Tidal flow and/or direction of predominant currents;
- c. Historic or legacy conditions in the vicinity;
- d. Nearby land and marine uses or actions;
- e. Beneficial Uses;
- f. Potential receptors of concern;
- g. Change in grain size salinity water depth and organic matter; and
- h. Other sources or discharges in the immediate vicinity.

4. ***Spatial Representation.*** The Sediment Monitoring Plan shall be designed to ensure that the sample stations are spatially representative of the sediment within the waterbody segment or region of interest.
 5. ***Existing Data and Information.*** The Sediment Monitoring Plan design shall take into consideration existing data and information of appropriate quality.
 6. ***Strata.*** Identification of appropriate strata shall consider characteristics of the water body including sediment transport, hydrodynamics, depth, salinity, land uses, inputs (both natural and anthropogenic) and other factors that could affect the physical, chemical, or biological condition of the sediment.
 7. ***Index Period.*** All stations shall be sampled between the months of June through September to correspond with the benthic community index period.
 8. ***Report Completion Schedule.*** The Sediment Monitoring Plan shall include a schedule for completion of all sample collection and analysis activities and submission of a final Sediment Monitoring Report described in Reporting Requirement VIII. C.
- B. **Sediment Monitoring Plan Implementation.** The Discharger or regional water body monitoring coalition shall implement the Sediment Monitoring Plan in accordance with the schedule contained in the Sediment Monitoring Plan unless otherwise directed in writing by the San Diego Water Board. Before beginning sample collection activities, the Discharger or regional water body monitoring coalition shall:
1. Notify the San Diego Water Board at least fourteen days in advance of the beginning of sample collection activities.; and
 2. Comply with any conditions set by the San Diego Water Board with respect to sample collection methods such as providing split samples.
- C. **Sediment Monitoring Report.** The Discharger or regional water body monitoring coalition shall submit a Sediment Monitoring Report containing the following information:

1. **Analysis.** An evaluation, interpretation and tabulation of the sediment monitoring data including interpretations and conclusions as to whether the aquatic life sediment quality objective stated in Receiving Water Limitations V.A.3.c)(1) has been attained at each sample station.
 2. **Sample Location Map.** The locations, type, and number of samples shall be identified and shown on a site map.
- D. **Additional Sediment Investigations.** Based on the Sediment Monitoring Report conclusions the San Diego Water Board may require a human health risk assessment to determine if the human health objective contained in Receiving Water Limitations V.A.3.c)(2) has been attained at each sample station. In conducting a risk assessment, the Discharger or regional water body monitoring coalition shall consider any applicable and relevant information, including California Environmental Protection Agency's (Cal/EPA) Office of Environmental Health Hazard Assessment (OEHHA) policies for fish consumption and risk assessment, Cal/EPA's Department of Toxic Substances Control (DTSC) Risk Assessment, and USEPA Human Health Risk Assessment policies.

IX. OTHER MONITORING REQUIREMENTS

No later than thirty (30) days prior to a planned public display of fireworks, the Discharger shall complete and submit Attachment C, *Public Display of Fireworks Event Notification Form* of this Order to the San Diego Water Board containing the following information:

1. The name of the organization sponsoring the fireworks event, together with the names and license numbers of the pyrotechnic operators actually in charge of the display;
2. The date, time, and duration of the public fireworks event;
3. The exact planned location for the public fireworks event, affected receiving waters, and adjacent shorelines, quays and docks;
4. Number, size, net explosive weight, solid rocket motor gross weight, and classification of all fireworks to be discharged including the number of set pieces, shells and other items. Shells shall be designated by diameter specifying single, multiple break or salute;
5. Documentary proof that all required permits and licenses for the public display of fireworks event have been obtained (i.e. State Fire Marshal's license, United States Coast Guard Marine Event Permit, etc.); and
6. A map or diagram identifying the grounds on which the fireworks display is to be held showing the fireworks launching area, the affected receiving water and adjacent shorelines, quays, and the fireworks deposition zone and any other appropriate features of the firing range.

X. REPORTING REQUIREMENTS

A. General Monitoring and Reporting Requirements

1. The Discharger shall comply with all Standard Provisions (Attachment D) related to monitoring, reporting, and recordkeeping.

B. Self Monitoring Reports (SMRs)

1. At any time during the term of this permit, the State or San Diego Water Board may notify the Discharger to electronically submit Self-Monitoring Reports (SMRs) using the State Water Board's California Integrated Water Quality System (CIWQS) Program Web site (<http://www.waterboards.ca.gov/ciwqs/index.html>). Until such notification is given, the Discharger shall submit hard copy SMRs. The CIWQS Web site will provide additional directions for SMR submittal in the event there will be service interruption for electronic submittal.
2. The Discharger shall report in the SMR the results for all monitoring specified in this MRP under sections III through IX. The Discharger shall submit annual SMRs including the results of all required monitoring using USEPA-approved test methods or other test methods specified in this Order. If the Discharger monitors any pollutant more frequently than required by this Order, the results of this monitoring shall be included in the calculations and reporting of the data submitted in the SMR.
3. Monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

Table 1. Monitoring Periods and Reporting Schedule

Monitoring and Reporting Frequency	Monitoring and Reporting Period Begins	Reporting Period	Report Due Date
Per Public Fireworks Display Event	Effective Date of Discharger Enrollment	Throughout Year	No Later than 30 Days Prior to Public Fireworks Display Event
After Event Inspections	Immediately Following Public Fireworks Event	Throughout Year	Make Log Available Within 5 Days of Public Fireworks Event

4. Reporting Protocols. The Discharger shall report with each sample result the applicable reported Minimum Level (ML) and the current Method Detection Limit (MDL), as determined by the procedure in Part 136.

The Discharger shall report the results of analytical determinations for the presence of chemical constituents in a sample using the following reporting protocols:

- a. Sample results greater than or equal to the reported ML shall be reported as measured by the laboratory (i.e., the measured chemical concentration in the sample).

- b. Sample results less than the RL, but greater than or equal to the laboratory's MDL, shall be reported as "Detected, but Not Quantified," or DNQ. The estimated chemical concentration of the sample shall also be reported.

For the purposes of data collection, the laboratory shall write the estimated chemical concentration next to DNQ as well as the words "Estimated Concentration" (may be shortened to "Est. Conc."). The laboratory may, if such information is available, include numerical estimates of the data quality for the reported result. Numerical estimates of data quality may be percent accuracy (+ a percentage of the reported value), numerical ranges (low to high), or any other means considered appropriate by the laboratory.

- c. Sample results less than the laboratory's MDL shall be reported as "Not Detected," or ND.
 - d. Dischargers are to instruct laboratories to establish calibration standards so that the ML value (or its equivalent if there is differential treatment of samples relative to calibration standards) is the lowest calibration standard. At no time is the Discharger to use analytical data derived from extrapolation beyond the lowest point of the calibration curve.
5. Compliance Determination. This Order requires the use of minimum stipulated BMPs to control and abate the discharge of pollutant wastes from public fireworks events to surface waters in the San Diego Region. Proper implementation of the BMPs will assure the protection of water and sediment quality within the receiving waters. Dischargers enrolled under this Order are expected to comply with all water and sediment quality objectives through the implementation of BMPs. Compliance will be determined by evaluating the proper implementation of the minimum stipulated BMPs and their effectiveness in preventing and minimizing pollutant waste loading from public fireworks events to surface waters. Compliance will also be evaluated using information obtained under the monitoring and reporting program of this Order.
6. Multiple Sample Data. When determining compliance with a measure of central tendency (arithmetic mean, geometric mean, median, etc.) of multiple sample analyses and the data set contains one or more reported determinations of "Detected, but Not Quantified" (DNQ) or "Not Detected" (ND), the Discharger shall compute the median in place of the arithmetic mean in accordance with the following procedure:
- a. The data set shall be ranked from low to high, ranking the reported ND determinations lowest, DNQ determinations next, followed by quantified values (if any). The order of the individual ND or DNQ determinations is unimportant.
 - b. The median value of the data set shall be determined. If the data set has an odd number of data points, then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of the points are ND or DNQ, in which case

the median value shall be the lower of the two data points where DNQ is lower than a value and ND is lower than DNQ.

7. The Discharger shall submit SMRs in accordance with the following requirements:

- a. The Discharger shall arrange all reported data in a tabular format. The data shall be summarized to clearly illustrate whether the facility is operating in compliance with interim and/or final effluent limitations. The Discharger is not required to duplicate the submittal of data that is entered in a tabular format within CIWQS. When electronic submittal of data is required and CIWQS does not provide for entry into a tabular format within the system, the Discharger shall electronically submit the data in a tabular format as an attachment.
- b. The Discharger shall attach a cover letter to the SMR. The information contained in the cover letter shall clearly identify violations of the WDRs; discuss corrective actions taken or planned; and the proposed time schedule for corrective actions. Identified violations must include a description of the requirement that was violated and a description of the violation.
- c. SMRs must be submitted to the San Diego Water Board, signed and certified as required by the Standard Provisions (Attachment D), to the address listed below:

California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

C. Discharge Monitoring Reports (DMRs)

1. As described in Section X.B.1 above, at any time during the term of this permit, the State or San Diego Water Board may notify the Discharger to electronically submit SMRs that will satisfy federal requirements for submittal of Discharge Monitoring Reports (DMRs). Until such notification is given, the Discharger shall submit DMRs in accordance with the requirements described below.
2. DMRs must be signed and certified as required by the standard provisions (Attachment D). The Discharger shall submit the original DMR and one copy of the DMR to the address listed below:

STANDARD MAIL	FEDEX/UPS/ OTHER PRIVATE CARRIERS
State Water Resources Control Board Division of Water Quality c/o DMR Processing Center PO Box 100 Sacramento, CA 95812-1000	State Water Resources Control Board Division of Water Quality c/o DMR Processing Center 1001 I Street, 15 th Floor Sacramento, CA 95814

3. All discharge monitoring results must be reported on the official USEPA pre-printed DMR forms (EPA Form 3320-1). Forms that are self-generated will not be accepted unless they follow the exact same format of EPA Form 3320-1.

ATTACHMENT F – FACT SHEET

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ATTACHMENT F – FACT SHEET

As described in section II of this Order, this Fact Sheet includes the legal requirements and technical rationale that serve as the basis for the requirements of this Order.

This Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for Dischargers in California. Only those sections or subsections of this Order that are specifically identified as “not applicable” have been determined not to apply to this Discharger. Sections or subsections of this Order not specifically identified as “not applicable” are fully applicable to this Discharger.

I. DISCHARGE INFORMATION

A. Introduction

This Order is intended to regulate pollutant waste discharges associated with the public display of fireworks to various receiving surface waters within the jurisdiction of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). The San Diego Region covers a large portion of San Diego County, portions of South Orange County, and the southwestern portion of Riverside County based on hydrologic drainage areas.

In this Order the public display of fireworks refers to an entertainment feature where the public or a private group is admitted to or permitted to view the display or discharge of fireworks. Public displays of fireworks (also referred to as a fireworks show or event) are conducted throughout the year at various locations within the San Diego Region. Typical fireworks constituents include, but are not limited to, aluminum, antimony, barium, carbon, calcium, chlorine, cesium, copper, iron, potassium, lithium, magnesium, oxidizers including nitrates, chlorates and perchlorates, phosphorus, sodium sulfur, strontium, titanium, and zinc. In addition, fireworks particulate matter and debris including stars, and un-ignited pyrotechnic material as well as paper, cardboard, wires and fuses from ignited pyrotechnic material can also adversely impact the quality of receiving waters. The receiving water area affected by these particulate matter and debris can vary depending on wind speed and direction, size of the shells, and other environmental and anthropogenic factors. The firework pollutant wastes have a potential to adversely affect, or contribute to degradation of, water and sediment quality within the receiving waters.

This Order requires implementation of Best Management Practices (BMPs) to ensure the pollutant waste discharges associated with the public display of fireworks do not cause pollution or nuisance conditions in surface waters within the San Diego Region

B. Background

In 1972, the Federal Water Pollution Control Act, currently referred to as the Federal Clean Water Act (CWA), was amended to provide that the discharge of pollutants to waters of the United States from any point source is prohibited, unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The federal regulations allow authorized states to issue either general permits or individual permits to regulate discharges of pollutants to waters of the United States.

The discharge of pollutants from fireworks events over or adjacent to surface waters are considered a point source discharge and are thus subject to NPDES permit requirements of the CWA.

C. Discharge Description

Fireworks are a class of low explosive pyrotechnic devices used for aesthetic or entertainment purposes. Firework devices take many forms to produce four primary effects: noise, light, smoke, and floating materials (confetti for example). Fireworks may be designed to burn with colored flames and sparks including red, orange, yellow, green, blue, purple, and silver.

Fireworks are generally classified as a ground or aerial firework. Aerial fireworks typically either provide their own propulsion (e.g. a skyrocket using a solid rocket motor) or are shot into the air in an aerial shell by a mortar using a black powder lofting charge or propellant. The aerial shell typically consists of a cylinder or spherical cartridge, usually constructed of paper or pasteboard, containing a burst charge, pyrotechnic material, a fuse and a black powder lift charge. Aerial shells are often combined so as to make, when detonated, a great variety of sparkling shapes, often variously colored.

Colors in fireworks are usually generated by pyrotechnic stars—usually just called stars—which produce intense light when ignited. Stars contain five basic types of ingredients.

- A fuel which allows the star to burn
- An oxidizer—a compound which produces (usually) oxygen to support the combustion of the fuel
- Color-producing chemicals
- A binder which holds the pellet together.
- A chlorine donor which provides chlorine to strengthen the color of the flame. Sometimes the oxidizer can serve this purpose.

A list of chemicals used in fireworks as fuels, oxidizers, binding agents, coloration effects and sound effects is provided in Table 1 below. The detonation of fireworks over or adjacent to surface waters may result in the discharge of these pollutants to surface waters:

Table 1. Fireworks Chemical Constituents

Symbol	Name	Fireworks Usage
Al	Aluminum	Aluminum is used to produce silver and white flames and sparks. It is a common component of sparklers.
Ba	Barium	Barium is used to create green colors in fireworks, and it can also help stabilize other volatile elements.
C	Carbon	Carbon is one of the main components of black powder, which is used as a propellant in fireworks. Carbon provides the fuel for a firework. Common forms include carbon black, sugar, or starch.
Ca	Calcium	Calcium is used to deepen firework colors. Calcium salts produce orange fireworks.
Cl	Chlorine	Chlorine is an important component of many oxidizers in fireworks. Several of the metal salts that produce colors contain chlorine.
Cs	Cesium	Cesium compounds produce indigo color in fireworks.
Cu	Copper	Copper compounds produce blue colors in fireworks.
Fe	Iron	Iron is used to produce sparks. The heat of the metal determines the color of the sparks.
K	Potassium	Potassium compounds help to oxidize firework mixtures. Potassium nitrate, potassium chlorate, and potassium perchlorate are all important oxidizers. The potassium content can impart a violet color to the sparks.
Li	Lithium	Lithium is a metal that is used to impart a red color to fireworks. Lithium carbonate, in particular, is a common colorant.
Mg	Magnesium	Magnesium burns a very bright white, so it is used to add white sparks or improve the overall brilliance of a firework.
Na	Sodium	Sodium imparts a gold or yellow color to fireworks, however, the color is often so bright that it frequently masks other, less intense colors.
O	Oxygen	Fireworks include oxidizers, which are substances that produce oxygen in order for burning to occur. The oxidizers are usually nitrates, chlorates, or perchlorates. Sometimes the same substance is used to provide oxygen and color.
P	Phosphorus	Phosphorus burns spontaneously in air and is also responsible for some glow in the dark effects. It may be a component of a firework's fuel.

Symbol	Name	Fireworks Usage
S	Sulfur	Sulfur is a component of black powder, and as such, it is found in a firework's propellant/fuel.
Sb	Antimony	Antimony is used to create firework glitter effects.
Sr	Strontium	Strontium salts impart a red color to fireworks. Strontium compounds are also important for stabilizing fireworks mixtures.
Ti	Titanium	Titanium metal can be burned as powder or flakes to produce silver sparks.
Zn	Zinc	Zinc is a bluish white metal that is used to create smoke effects for fireworks and other pyrotechnic devices.

Various factors can affect the levels of firework chemical residues in surface waters adjacent to fireworks displays, such as the frequency of firework events, the overall amount of ignited fireworks per event, efficiency of perchlorate oxidation which controls the mass of perchlorate introduced to the environment, wind direction and velocity which controls the dispersion and fall-out of firework particles. In addition, debris from unexploded shells as well as paper, cardboard, wires and fuses from exploded shells can also enter surface waters following detonation. The receiving water area affected by this debris can vary depending on wind speed and direction, size of the shells, and other environmental and anthropogenic factors. All of these discharges associated with the detonation of fireworks have a potential to adversely effect or contribute to degradation of water and sediment quality within the receiving waters.

D. Discharge Points and Receiving Waters

Discharges associated with fireworks related waste can have multiple discharge points and have the potential to impact various surface waters within the San Diego Region.

II. PERMIT INFORMATION

A. Eligibility Criteria

1. Any person who discharges or proposes to discharge pollutant waste from the public display of fireworks to surface waters in the San Diego Region may submit a Notice of Intent (NOI) under this Order. When a fireworks event is sponsored by one person but is operated or conducted by another person, it is the sponsor's duty to submit an NOI and obtain enrollment under this Order. The San Diego Water Board may require the joint submission of an NOI from both the sponsor and the person operating the fireworks event on a case-by-case basis.

2. This Order is applicable to pollutant waste discharges associated with the public display of fireworks to surface waters within the San Diego Region.
3. To be authorized by this Order, Dischargers must demonstrate that the discharge or proposed discharge meets the following criteria:
 - a. Pollutant concentrations in the discharge shall not cause violation of any applicable water quality objective for the receiving waters, including Discharge Specifications of this Order; and
 - b. The discharge shall not cause acute or chronic toxicity in receiving waters;

B. Enrollment

To enroll under this Order a Discharger must submit the following items to the San Diego Water Board:

1. A completed Notice of Intent (NOI) form no later than 60 days prior to a fireworks event (see Attachment B); and
2. Payment of the annual application fee, equal to the first annual fee, made payable to State Water Resources Control Board or "SWRCB."

The NOI, including, the application fee, and other attachments must be submitted to the following address:

CRWQCB – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Attn: Fireworks General NPDES Order
NOTICE OF INTENT

C. Notice of Enrollment

Notice of Enrollment under this Order will be provided to the Discharger by the San Diego Water Board upon receipt of a complete NOI and application fee. The Notice of Enrollment may include additional or increased monitoring due to specific circumstances of the discharge, and any other additional requirements. The effective enrollment date will be specified in the Notice of Enrollment.

III. APPLICABLE PLANS, POLICIES, AND REGULATIONS

The requirements contained in the proposed Order are based on the requirements and authorities described in this section.

A. Legal Authorities

This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from this facility to surface waters. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the Water Code (commencing with section 13260).

B. California Environmental Quality Act (CEQA)

Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code sections 21100 through 21177.

C. State and Federal Regulations, Policies, and Plans

Water Quality Control Plans. The Regional Water Quality Control Board, San Diego Region (San Diego Water Board) adopted a Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives in all receiving waters addressed through the plan. In addition, the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply.

Beneficial uses applicable to receiving waters within the San Diego Region are as follows:

Table 2. Basin Plan Beneficial Uses

Discharge Point(S)	Receiving Water Name	Beneficial Use(s)
Various	Coastal Waters (Pacific Ocean, Enclosed Bays and Estuaries, Harbors, and Lagoons)	Industrial service supply (IND), navigation (NAV), contact water recreation (REC1), non-contact water recreation (REC2), commercial and sport fishing (COMM), biological habitats of special significance (BIOL), estuarine habitats (EST) wildlife habitat (WILD), preservation of rare, threatened or endangered species (RARE), marine habitat (MAR), Aquaculture (AQUA), migration of aquatic organisms (MIGR), spawning (SPWN), and shellfish harvesting (SHELL).
Various	Inland Surface Waters	Municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), industrial process supply (PROC), ground water recharge (GWR), hydropower generation (POW), contact water recreation (REC1), non-contact water recreation (REC2), biological habitats of special significance (BIOL), warm freshwater habitat (WARM), cold freshwater habitat (COLD), wildlife habitat (WILD), preservation of rare, threatened or endangered species (RARE), spawning (SPWN).

Requirements of this Order implement the Basin Plan.

California Ocean Plan. The State Water Board adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (Ocean Plan) in 1972 and amended it in 1978, 1983, 1988, 1990, 1997, 2000, and 2005. The State Water Board adopted the latest amendment on April 21, 2005 and it became effective on February 14, 2006. The Ocean Plan is applicable, in its entirety, to point source discharges to the ocean. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized below

Table 3. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water	Beneficial Uses
Outfall 001	Pacific Ocean	Industrial water supply; water contact and non-contact recreation, including aesthetic enjoyment; navigation; commercial and sport fishing; mariculture; preservation and enhancement of designated Areas of Special Biological Significance (ASBS); rare and endangered species; marine habitat; fish spawning and shellfish harvesting

In order to protect the beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Requirements of this Order implement the Ocean Plan.

Alaska Rule. On March 30, 2000, USEPA revised its regulation that specifies when new and revised state and tribal water quality standards (WQS) become effective for CWA purposes (40 C.F.R. § 131.21, 65 Fed. Reg. 24641 (April 27,

2000)). Under the revised regulation (also known as the Alaska rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000, may be used for CWA purposes, whether or not approved by USEPA.

Antidegradation Policy. Section 131.12 requires that the state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings. The San Diego Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. The permitted discharge must be consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.

Anti-Backsliding Requirements. Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at title 40, Code of Federal Regulations¹ section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require that effluent limitations in a reissued permit must be as stringent as those in the previous permit, with some exceptions in which limitations may be relaxed.

D. Impaired Water Bodies on CWA 303(d) List

The federal Clean Water Act requires States to identify and make a list of surface water bodies that are polluted. These water bodies, referred to in law as "water quality limited segments," do not meet water quality standards even after discharges of wastes from point sources have been treated by the minimum required levels of pollution control technology. Wastewater treatment plants, a city's storm drain system, or a boat yard, are a few examples of point sources that discharge wastes to surface waters. States are required to compile the water bodies into a list, referred to as the "Clean Water Act Section 303(d) List of Water Quality Limited Segments" (303(d) List). States must also prioritize the water bodies on the list and develop action plans, called total maximum daily loads (TMDLs) to improve the water quality.

The State Board updated the 2004-2006 303(d) List for California on October 25, 2006, and EPA approved it on November 30, 2006.

There are approximately 100 impaired water bodies on the 303(d) List in the San Diego Region. Most TMDLs for water bodies within the San Diego Region are under development or have not been started. However, four TMDLs for the San

¹ All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.

Diego Region need only State Board approval to be complete, and three are already complete. Of the three completed TMDLs, two impact the water quality of San Diego Bay and the third impacts the water quality of Rainbow Creek.

E. Other Plans, Policies and Regulations – Not Applicable

IV. RATIONALE FOR EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

The CWA requires point source dischargers to control the amount of conventional, non-conventional, and toxic pollutants that are discharged into the waters of the United States. The control of pollutants discharged is established through effluent limitations and other requirements in NPDES permits. There are two principal bases for effluent limitations in the Code of Federal Regulations: section 122.44(a) requires that permits include applicable technology-based limitations and standards; and section 122.44(d) requires that permits include water quality-based effluent limitations to attain and maintain applicable numeric and narrative water quality criteria to protect the beneficial uses of the receiving water.

A. Discharge Prohibitions

Discharges under this Order are required to be nontoxic. Toxicity is the adverse response of organisms to chemicals or physical agents. This prohibition is based on the Basin Plan, which requires that all waters be maintained free of toxic substances in concentrations that are lethal or produce other detrimental responses in aquatic organisms. Detrimental responses include, but are not limited to, decreased growth rate and decreased reproductive success of resident or indicator species. The Basin Plan also requires waters to be free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, or animal life. This objective applies regardless of whether the toxicity is caused by a single substance or the interactive effect of multiple substances.

B. Technology-Based Effluent Limitations

1. Scope and Authority

Section 301 (b) of the CWA and implementing USEPA permit regulations (40 CFR 122.44) require that permits include conditions meeting the applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards.

The CWA requires that technology-based effluent limitations be established based on several levels of controls:

Best practicable treatment control technology (BPT) represents the average of the best performance by plants within an industrial category or

subcategory. BPT standards apply to toxic, conventional, and non-conventional pollutants.

Best available technology economically achievable (BAT) represents the best existing performance of treatment technologies that are economically achievable within an industrial point source category. BAT standards apply to toxic and non-conventional pollutants.

Best conventional pollutant control technology (BCT) represents the control from existing industrial point sources of conventional pollutants including BOD, TSS, fecal coliform, pH, and oil and grease. The BCT standard is established after considering the “cost reasonableness” of the relationship between the cost of attaining a reduction in effluent discharge and the benefits that would result, and also the cost effectiveness of additional industrial treatment beyond BPT.

New source performance standards (NSPS) represent the best available demonstrated control technology standards. The intent of NSPS guidelines is to set limitations that represent state-of-the-art treatment technology for new sources.

The CWA requires USEPA to develop effluent limitations, guidelines and standards (ELGs) representing application of BPT, BAT, BCT, and NSPS. Section 402(a)(1) of the CWA and section 125.3 of the Code of Federal Regulations authorize the use of best professional judgment (BPJ) to derive technology-based effluent limitations on a case-by-case basis where ELGs are not available for certain industrial categories and/or pollutants of concern. Where BPJ is used, the permit writer must consider specific factors outlined in section 125.3. This General Permit requires the use of BMPs to control and abate the discharge of pollutants from public fireworks event to surface waters within the San Diego Region.

2. Applicable Technology-Based Effluent Limitations

This General Permit will authorize the discharge of aerial fireworks related waste that may pose a threat to water quality and beneficial uses of the receiving waters. The primary mechanism for regulating such discharges will be through the development and implementation of BMPs as required by section VI.C.3. of this Order.

NPDES regulations [40 CFR 122.44(k)] allows for the use of BMPs to control or abate the discharge of pollutants under certain circumstances, including when numeric effluent limitations are infeasible. Proper implementation of BMPs will assure the protection of water quality within the receiving waters. Dischargers enrolled under this General Permit are expected to comply with all water quality objectives through the implementation of BMPs.

C. Water Quality-Based Effluent Limitations (WQBELs)

1. Scope and Authority

Section 301(b) of the CWA and section 122.44(d) require that permits include limitations more stringent than applicable federal technology-based requirements where necessary to achieve applicable water quality standards.

Section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant, but there is no numeric criterion or objective for the pollutant, water quality-based effluent limitations (WQBELs) must be established using: (1) USEPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in section 122.44(d)(1)(vi).

The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses of the receiving water as specified in the Basin Plan, and achieve applicable water quality objectives and criteria that are contained in other state plans and policies, or any applicable water quality criteria contained in the Ocean Plan and CTR.

2. Applicable Beneficial Uses and Water Quality Criteria and Objectives

The designated beneficial uses of surface waters throughout the State may include municipal, domestic, industrial, and agricultural supply; water contact and non-contact recreation; navigation; groundwater recharge and freshwater replenishment; hydropower generation; wildlife habitat; cold freshwater and warm freshwater habitat; fish migration and fish spawning; marine habitat; estuarine habitat; shellfish harvesting; ocean commercial and sport fishing; areas of special biological significance; and preservation of rare and endangered species. To the extent that the Basin Plan designates additional or different beneficial uses, the Basin Plan shall control.

3. Determining the Need for WQBELs

This Order does not contain WQBELs. The San Diego Water Board finds that numeric effluent limitations are infeasible because it is impracticable to determine actual concentrations of pollutants in the fireworks waste prior to entering the receiving water. This Order requires the use of BMPs to control

and abate the discharge of pollutants from public fireworks events to surface waters in the San Diego Region.

CWA section 301 (b)(1) and section 122.44(d) require NPDES permits to include effluent limitations that achieve technology-based standards and any more stringent limitations necessary to meet water quality standards. Where numeric effluent limitations for a pollutant or pollutant parameter have not been established in the applicable state water quality control plan, 40 CFR section 122.44(d)(1)(vi) specifies that water quality-based effluent limitations (WQBELs) may be set based on USEPA criteria, and may be supplemented where necessary by other relevant information to attain and maintain narrative water quality criteria, and to fully protect designated beneficial uses.

NPDES regulations [section 122.44(k)] acknowledge that BMPs shall be included as permit conditions (when applicable) where they are authorized under section 304(e) of the CWA when (1) numeric effluent limitations are infeasible or (2) necessary to achieve limitations or carry out the purpose and intent of the CWA.

4. WQBEL Calculations – Not Applicable

5. Whole Effluent Toxicity (WET) – Not Applicable

D. Final Effluent Limitations

1. Satisfaction of Anti-Backsliding Requirements – Not Applicable

2. Satisfaction of Antidegradation Policy

The San Diego Water Board has determined that discharges authorized under the General Permit will be consistent with applicable antidegradation requirements of State Water Board Resolution No. 68-16, as well as USEPA policy established at 40 CFR 131.12. These provisions require that, at a minimum, existing instream water uses and the level of water quality necessary to protect those existing uses must be maintained. Where the existing water quality is better than the water quality objectives set to protect existing and potential beneficial uses, that quality must be maintained, unless specific findings are made.

3. Stringency of Requirements for Individual Pollutants

This Order requires the Discharger to develop and implement BMPs to regulate and control the discharge of waste associated with public fireworks events.

The requirements established by this Order are no more stringent than necessary to implement the mandates of the CWA.

E. Interim Effluent Limitations – Not Applicable

F. Land Discharge Specifications- Not Applicable

G. Reclamation Specifications – Not Applicable

V. RATIONALE FOR RECEIVING WATER LIMITATIONS

A. Surface Water

The discharge shall at all times be in conformance with applicable water quality standards and shall not cause an excursion above any applicable narrative or numeric water quality objective, including but not limited to all applicable provisions contained in:

1. The San Diego Water Board's *Water Quality Control Plan for the San Diego Basin* (Basin Plan), including beneficial uses, water quality objectives, and implementation plans;
2. State Water Board plans for water quality control including the:
 - a) Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries (Thermal Plan), and
 - b) The *California Ocean Plan* (Ocean Plan), including beneficial uses, water quality objectives, and implementation plans;
3. State Water Board policies for water quality control including the
 - a) Water Quality Control Policy for the Enclosed Bays and Estuaries of California,
 - b) Policy for Implementation of Toxics Standards for Inland Surface Waters, and Enclosed Bays, and Estuaries of California;
 - c) State Water Resources Control Board's Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality which includes the following narrative objectives
 - (1) Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities; and
 - (2) Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health.

- d) Resources Control Board's Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality; and
 - e) The Statement of Policy with Respect to Maintaining High Quality of Waters in California (State Water Board Resolution No. 68-16)
4. Priority pollutant criteria promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the:
- a) National Toxics Rule (NTR)² (promulgated on December 22, 1992 and amended on May 4, 1995) and
 - b) California Toxics Rule (CTR)^{3, 4}

B. Groundwater – Not Applicable

VI. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS

Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorizes the San Diego Water Board to require technical and monitoring reports. The Monitoring and Reporting Program (MRP), Attachment E of this Order, establishes monitoring and reporting requirements to implement federal and state requirements. The following provides the rationale for the monitoring and reporting requirements contained in the MRP for this facility.

A. Influent Monitoring – Not Applicable

B. Effluent Monitoring – Not Applicable

C. Whole Effluent Toxicity Testing Requirements – Not Applicable

D. Receiving Water Monitoring

1. Surface Water

Surface water monitoring is necessary to assess the potential impacts associated with discharges of waste from public fireworks events to surface waters in the San Diego Region.

2. Groundwater

Discharges of wastes from public fireworks events to land are subject to regulation under the San Diego Water Board's Conditional Waiver No. 11 and

² 40 CFR 131.36

³ 65 Federal Register 31682-31719 (May 18, 2000), adding Section 131.38 to 40 CFR

⁴ If a water quality objective and a CTR criterion are in effect for the same priority pollutant, the more stringent of the two applies

are not subject to regulation under this Order. Additional information on the San Diego Water Board Conditional Waivers can be found at the San Diego Water Board website: <http://www.waterboards.ca.gov/sandiego/>

E. Other Monitoring Requirements – Not Applicable

VII. RATIONALE FOR PROVISIONS

A. Standard Provisions

Standard Provisions, which apply to all NPDES permits in accordance with section 122.41, and additional conditions applicable to specified categories of permits in accordance with section 122.42, are provided in Attachment D to the order.

Section 122.41(a)(1) and (b) through (n) establish conditions that apply to all State-issued NPDES permits. These conditions must be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to the regulations must be included in the Order. Section 123.25(a)(12) allows the state to omit or modify conditions to impose more stringent requirements. In accordance with section 123.25, this Order omits federal conditions that address enforcement authority specified in sections 122.41(j)(5) and (k)(2) because the enforcement authority under the Water Code is more stringent. In lieu of these conditions, this Order incorporates by reference Water Code section 13387(e).

B. Special Provisions

1. Reopener Provisions

This Order may be re-opened and modified, revoked, and reissued or terminated in accordance with the provisions of 40 CFR Parts 122, 123, 124, and 125. The Regional Water Board may reopen the permit to modify permit conditions and requirements. Causes for modifications include the promulgation of new regulations or adoption of new regulations by the State Water Board or San Diego Water Board, including revisions to the Basin Plan.

2. Special Studies and Additional Monitoring Requirements – Not Applicable

3. Best Management Practices and Pollution Prevention

The Discharger shall prepare and implement BMP's to prevent or reduce the discharge of pollutants associated with the public display of fireworks. The BMP's shall contain, at a minimum, the following procedures:

- a. Whenever practicable and economically feasible, the Discharger shall consider the use of "environmentally friendly" fireworks produced with new

pyrotechnic formulas that replace perchlorate with other oxidizers and propellants that burn cleaner, produce less smoke and have a lower pollutant waste loading to surface waters.

- b. Fireworks displays on barges shall be set up in accordance with the requirements, and under the supervision of, the Fire Department. The "mortars" used to hold and launch the fireworks shall be secured properly and use fire-retardant material, such as sand, in accordance with local codes. Barges shall be inspected for leaks and other potential safety issues. Wires used to trigger the fireworks shall be secured on the barges to prevent the wires from being pulled into the air and falling into the water.
- c. Fireworks shall be packaged, transported, stored, set-up, and handled in accordance with California Code of Regulations, Title 19, Division 1, Chapter 6, *Fireworks* and Title 22, Chapter 33, *Best Management Practices for Perchlorate Materials* in order to prevent or minimize firework pollutant wastes from entering surface waters.
- d. All debris including fuses, wires, and wrappings shall be properly disposed in trash receptacles as the display is set up.
- e. Within 24 hours following a public display of fireworks or the use of dangerous fireworks, the Discharger shall, in addition to complying with title 19 of the California Code of Regulations, section 1003, shall, to the extent practical, collect, remove, and manage any stars and un-ignited pyrotechnic material found during the required inspection of the entire firing range. The Discharger shall also inspect shorelines, quays, and docks adjacent to the public fireworks event and to the extent practical, collect, remove, and manage any fireworks solid waste such as cardboard, paper, or other debris.

For fireworks displays on barges, the decks of each barge shall be swept to prevent debris and other solid waste from blowing into the water. The barges will be returned to the loading/setup yard facility to be further cleaned and to have the mortars removed.

- f. Immediately after each fireworks event and as soon as practicable, a cleanup crew shall conduct several sweeps of the fireworks deposition zone (FDZ) to gather floating debris from spent fireworks using hand held fishnets or pool skimmers.
- g. Unexploded fireworks, including duds and misfires, shall be collected and removed immediately following the display and returned directly to the wholesaler/manufacturer. Collected material must be managed as hazardous waste.

- h. Maintenance of a written log documenting completion of all activities conducted to implement the required minimum stipulated BMPs of this Order, any additional BMPs employed, the amounts of fireworks debris collected, the dates, times and visual observations noted for after event firing range inspections and any other pertinent information. This log shall be completed within 5 days following each public fireworks event and shall be made available to the San Diego Water Board upon request.

4. Construction, Operation, and Maintenance Specifications – Not Applicable

5. Special Provisions for Municipal Facilities (POTWs Only) – Not Applicable

6. Other Special Provisions – Not Applicable

7. Compliance Schedules – Not Applicable

VIII. PUBLIC PARTICIPATION

The San Diego Water Board is considering the issuance of waste discharge requirements (WDRs) that will serve as a General National Pollutant Discharge Elimination System (NPDES) permit for discharges of waste associated with public display of fireworks. As a step in the WDR adoption process, the San Diego Water Board staff has developed tentative WDRs. The San Diego Water Board encourages public participation in the WDR adoption process.

A. Notification of Interested Parties

The San Diego Water Board has notified interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. The draft tentative Order was electronically e-mailed to all known interested persons on September 23, 2010, posted on the San Diego Water Board's webpage shortly thereafter. Notification was published in the San Diego Union Tribune on September 23, 2010 and the Orange County Register and the (Riverside) Press-Enterprise on September 24, 2010.

B. Written Comments

Interested persons were invited to submit written comments concerning this Order prior to its adoption by the San Diego Water Board. Comments were required to be submitted either in person or by mail to the Executive Office at the San Diego Water Board at the address above on the cover page of this Order.

C. Public Hearing

The San Diego Water Board held a public hearing on this Order during its regular Board meeting on the following date and time and at the following location:

Date: **November 10, 2010**
Time: **9:00 AM**
Location: **Water Quality Control Board
San Diego Water Board Meeting Room
9174 Sky Park Court
San Diego, CA 92123**

Interested persons were invited to attend. At the public hearing, the San Diego Water Board heard testimony, if any, pertinent to the discharge and this Order.

D. Waste Discharge Requirements Petitions

Any person affected by adoption of this Order of the San Diego Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations Title 23 section 2050. The petition must be received by the State Water Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of adoption of this Order. Copies of the laws and regulations applicable to filing petitions will be provided upon request.

E. Information and Copying

Documents related to this Order, comments received, and other information are on file and may be inspected at the address above at any time between 8:30 a.m. and 4:45 p.m., Monday through Friday. Copying of documents may be arranged through the San Diego Water Board by calling (858) 467-2952.

F. Register of Interested Persons

Any person interested in being placed on the mailing list for information regarding this Order should contact the San Diego Water Board, reference this facility, and provide a name, address, and phone number.